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Reply to:

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March 18, 2004

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Honorable Deborah Taylor Tate
Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

**IN RE: TARIFF TO RECLASSIFY RATE GROUPING OF CERTAIN
BELLSOUTH EXCHANGES**

Docket 04-00015

Dear Chairman Tate:

Enclosed is an original and thirteen copies of the corrected Consumer Advocate and Protection Division's Comments Regarding BellSouth Telecommunication, Inc.'s Example Of How Regrouping Would Be Handled For Purposes Of BellSouth's Annual Price Regulation Filing in regards to Docket No. 04-00015.

This filing is being made to correct the paragraph numbers in the pleading filed yesterday afternoon. Corrected copies are being sent to all parties of record. I apologize for any inconvenience caused by this oversight. If you have any questions, kindly contact me at (615) 741-1671. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe Shirley".

Joe Shirley

Assistant Attorney General

CC: All Parties of Record.

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

**TARIFF TO RECLASSIFY RATE
GROUPING OF CERTAIN BELLSOUTH
EXCHANGES — TARIFF NO. 2004-0055**

DOCKET NO. 04-00015

**CONSUMER ADVOCATE AND PROTECTION DIVISION'S COMMENTS
REGARDING BELLSOUTH TELECOMMUNICATION, INC.'S
EXAMPLE OF HOW REGROUPING WOULD BE HANDLED FOR
PURPOSES OF BELLSOUTH'S ANNUAL PRICE REGULATION FILING**

Comes now Paul G. Summers, Attorney General and Reporter for the State of Tennessee, through the Consumer Advocate and Protection Division of the Office of the Attorney General ("Consumer Advocate"), and hereby submits the *Consumer Advocate and Protection Division's Comments Regarding BellSouth Telecommunication, Inc.'s Example of How Regrouping Would be Handled for Purposes of BellSouth's Annual Price Regulation Filing*

1. In response to TRA Staff's January 16, 2004 Data Request, BellSouth stated, "[t]he Price Regulation Statute [Tenn. Code Ann. § 65-5-209] does not impact BellSouth's tariff. Nothing in the price regulation statute or plan even references, much less changes, the rate group concept generally or the tariff specifically Because the rates for these rate groups remain unaltered, the Price Regulation Statute is not implicated."¹ In response to TRA Staff's January 27, 2004 Data Request, BellSouth stated that "there is no statutory requirement that BellSouth use headroom in

¹ BellSouth's January 23, 2004 Response to TRA Staff's January 16, 2004 Data Request, Docket No. 04-00015, Item No. 5.

order to place customers in the proper rate group. Headroom is not required in order to correct rate groups such that all locations meeting the rate group definitions, as set out in the tariff, are included in the correct rate groups This filing [BellSouth's regrouping tariff] neither requires nor creates headroom."²

2. However, in BellSouth's March 16, 2004 example of how its regrouping tariff would be reflected in its annual price regulation plan filing, BellSouth stated, "[i]f the attached example were a complete price regulation filing, then the headroom for the next year would be reflected as:

Basic — Headroom decreased by \$151,421
Non-Basic — Headroom increased by \$129,468"³

3. Thus, BellSouth's March 16th example depicting how headroom will be adjusted to reflect regrouping is inconsistent with BellSouth's position in this docket that its regrouping tariff does not implicate the Price Regulation Statute or affect BellSouth's headroom that is computed pursuant to the price regulation plan established by that statute.

4. In its March 16th example for the Knoxville exchange, BellSouth stated that, "[t]here is no change to the reference rate [base-year price] for any service as a result of regrouping."⁴ This is incorrect.

5. Base-year price (or reference rate) is the "service prices in effect on December 1,

² BellSouth's January 30, 2004 Response to TRA Staff's January 27, 2004 Data Request, Docket No. 04-00015, Item No. 3 (*emphasis added*).

³ BellSouth's March 16, 2004 Letter from Charles L. Howorth, Regulatory Vice President, to Hon. Pat Miller, Director, Docket No. 0400015, p. 2 ("BellSouth's March 16th Letter").

⁴ *Id.*

1998.” *Order Approving BellSouth Telecommunications, Inc.’s Application for Price Regulation Plan*, Docket No. 95-02614, p. 21 (Tenn. Reg. Auth. Dec. 9, 1998).

6. In BellSouth’s March 16th example for the Knoxville exchange, for instance, BellSouth showed a base-year price of \$12.15 for residential basic local exchange service.⁵ However, the residential basic local exchange service price in effect for Knoxville was \$11.85 on December 1, 1998 — not \$12.15.⁶ Accordingly, in its March 16th example for the Knoxville exchange, BellSouth adjusted base-year prices in order to minimize the change to existing headroom per BellSouth’s price regulation plan.

7. In its March 16th example, BellSouth takes the position that the headroom adjustments caused by regrouping are attributable to changes in “demand,” as if customers had moved from one rate group category to another.⁷ However, the regrouping tariff does not change “demand” because BellSouth’s rate group reclassification proposal neither increases nor decreases the total number of customers subscribing to basic local exchange telephone service. Existing customers are simply reclassified to a higher-rated rate group.⁸

⁵ See “Present and Proposed Rates and Revenues” schedule attached to BellSouth’s March 16th Letter, p. 1.

⁶ See *Affidavit of Mark H Crocker, C.P.A.*, Docket No. 04-00015, Exhibit 1, Column (C), Line 22.

⁷ BellSouth’s March 16, 2004 Letter, p. 2.

⁸ See BellSouth’s January 23, 2004 Response to TRA Staff’s January 16, 2004 Data Request, Docket No. 04-00015, Item Nos. 1 and 2, Attachment A (document labeled as “Attachment B”) (“Present and Proposed Rates and Revenues”) (*compare* “Present In-Service” demand *with* “Proposed In-Service” demand). See also “Present and Proposed Rates and Revenues” schedule attached to BellSouth’s March 16th Letter (*compare* “Present In-Service”

8. Moreover, pursuant to the service price index methodology established by the TRA, headroom is either increased (created) or decreased (consumed) by changes in current-year prices, depending on whether current-year prices are increased (headroom decreased or consumed) or whether current-year prices are decreased (headroom increased or created).⁹ For instance, when BellSouth increased residential rates on February 6, 2004, the amount of available headroom under BellSouth's price regulation plan decreased, and when BellSouth made a series of access rate reductions, the amount of available headroom increased.

9. Examination of BellSouth's March 16th example for the Knoxville exchange reveals that the revenue changes that drive the headroom adjustments in that example are attributable to BellSouth's February 6, 2004 rate increase. On that date, BellSouth increased the rates for residential basic local exchange service by approximately 1.6%. For Rate Group 5 exchanges, rates were increased from \$12.15 (base-year price in BellSouth's example) to \$12.34 (current-year price in BellSouth's example). However, Knoxville is not a Rate Group 5 exchange.


10. BellSouth's March 16th example clearly demonstrates that its regrouping tariff would cause adjustments to both the current-year prices and base-year prices that BellSouth uses to compute available headroom under its price regulation plan.

demand with "Proposed In-Service" demand)

⁹ See *Consumer Advocate and Protection Division's Memorandum in Opposition to BellSouth Telecommunications, Inc.'s Motion for Summary Judgment*, Docket No. 04-00015, pp. 11-12.

RESPECTFULLY SUBMITTED,

PAUL G. SUMMERS, B.P.R. #6285
Attorney General
State of Tennessee



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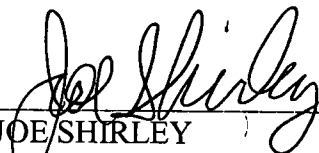
Dated: March 18, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via facsimile or first-class U.S. Mail, postage prepaid, on March 18, 2004, upon:

Guy M. Hicks, Esq.
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JOE SHIRLEY
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